

FILED
SEP - 7 2010

Ms. Mary Austad
Courtroom Deputy for The Honorable Garr M. King
U.S. District Court
District of Oregon
(503) 326-8034

9/1/10

Dear Ms. Austad,

I am writing to request an extension of the filing date for my brief for case 3:09-cv-3105-KI.

Since the beginning of this case, I have been, and am still, unable to get access to my full social security disability file containing records dating back to 1996, or to have the existence of this file confirmed or denied. I first formally requested access to these records in February of this year. In addition to phone calls, I made a second formal request for this file in April of this year. I have made subsequent phone calls to our local Social Security Administration (SSA) office. I have recently been informed that their office has done everything they can do to obtain my record but that the most recent response to their request for the files were that those files are "pending at the courthouse and can not be released."

Twice, I have requested and been granted extensions by your office in order to allow the SSA to locate (or confirm the loss of) these files (requests approved on 5/18/10 and 7/6/10).

In conversation with Christopher Dellert at the Office of General Council this afternoon, he stated that the bound Record that I received from their office is my SSA Disability file. However, he acknowledged that someone at the Office of Disability Adjudication and Review (ODAR) would have compiled this Record. He did not know of the existence of any additional files, but stated that someone there would have gone through and pulled what they thought was pertinent to my case (from my larger, full SSA disability file). He was unsure whether the ODAR still have that larger file, or if it's been archived, or if it is now, for all purposes, lost.

My concern is that the Office of General Council will have access to my full SSA file if they deem it necessary to my case, while I will not, or if granted that opportunity in rebuttal, I won't have the time to adequately review the contents and compile a response. I cannot effectively argue my case if I do not know what is and is not in that full record. If additional materials exist that the Office of General Council could possibly use in filing its response to my brief in this case, then I MUST have access to these before I may write and file my own brief.

If, on the other hand, there simply are no other materials other than the Record itself, I can prepare my brief based on the Record. But, in this case, I would ask for written assurance from the Office of General Council that its response will be based solely on the material contained in the Record, so that I can be sure that SSA records I have been denied access to cannot suddenly be "found" by the SSA and something in it used against me.

I think the basic issue - that both parties in this case should play on a level playing field and be assured access to the SAME record of my case - is simple, common-sense, and completely necessary to ensuring a fair trial. Therefore, I again ask that either I be given access to whatever materials SSA possesses in my file that are not in the Record, or that the Office of General Council agree that it will confine itself to the same Record that I must use in arguing my case.

Given that so much time has elapsed since I formally requested these materials, I suggest that the most reasonable course is for the Office of General Council to state that both parties will limit themselves to the Record. However, if this is not agreeable, then both parties must agree on the extension(s) necessary to

allow the SSA to continue to attempt to locate my full file and allow me access to this file or to declare that no materials exist other than the Record itself.

Following Stephanie Martz's departure, my case has yet to be reassigned at the Office of General Council. In the aforementioned conversation with Christopher Dellert at the Office of General Council, I stated that I would like to request an extension on my brief filing date. He responded that he would like me to try to file my brief by the current brief due date of September 17, 2010. He went on to state that he would be leaving that office by the end of this week, but that Dave Burdett would be a good contact for follow up if I needed anything prior to filing. He stated that my case would probably not be assigned council until after my brief is filed. While his response was not a denial of my request for an extension, it wasn't an approval either.

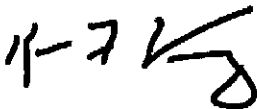
I ask that your office do 2 things:

First, I ask that your office direct the Office of General Council to definitively state what records, in their entirety, it will use in its case against me. If the Office of General Council is willing to formally state that they will limit themselves to the Record, then this condition would be immediately met. If, however, they are unwilling to state definitely that only the materials in the Record to which I have been given access will be used, then I request that the Office of General Council be granted extensions as necessary until they can either produce my file, or formally agree that all parties will confine themselves to the Record.

Second, I request that once the Office of General Council fulfills this first condition, that I then be granted a period of 60 days to prepare my brief from that date. The extensions granted in this case have not been for my convenience and have not benefitted me. These extensions have been extended solely to allow the SSA to either locate my file or determine that it no longer exists. In the 6 months since my initial request, the SSA has not made any demonstrable progress whatsoever. Meanwhile, I have not been able to prepare my brief, because I still do not know whether this file exists, or if all parties will be limited to use of the Record.

Thank you for your attention to this matter. Please contact me if you have any questions regarding this request and at your earliest convenience with a response to this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Varney' with a stylized flourish at the end.

Karen F. Varney
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